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Public Scrutiny Suffers a Setback

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By Walter Karp

The Reagan Administration has scored a momentous victory in its quiet campaign to block public scrutiny of the workings of the Federal Government. On Oct. 17, Samuel Loring Morison, a naval intelligence analyst, was found guilty of espionage for giving three classified satellite photographs of a new Soviet aircraft carrier to Jane's Defense Weekly, the venerable British military magazine.

When Mr. Morison was arrested on Oct. 1, 1984, there was no question of whether the disclosure of the information had actually damaged national security. The prosecution acknowledged that the Soviet Union had seen such satellite photographs before and knew the workings of the satellite in the greatest detail. Nor

In Morison's espionage case

was the transaction cloaked in darkness: Mr. Morison held a part-time position as an American editor for the British publisher, and the photographs were printed in the military magazine in August 1984.

The only question was whether the Justice Department could find a judge to rule that a law passed in 1917 to punish people who transfer military secrets to a foreign power could be applied to those who routinely transfer classified information to the media.

It found one. In Baltimore last March, a Federal district court judge, Joseph H. Young, made the unprecedented ruling that led to the trial. Mr. Morison has thus become the first person convicted under the Espionage Act of 1917 for "leaking" classified information to the media.

A deed that has been repeated countless times while the United States has flourished in freedom has overnight become a heinous felony. This alone suggests the importance of what has occurred. Under the new judge-made espionage law — a law that Congress has repeatedly refused to enact — it is now a crime punishable by 10 years in prison to give the media or the American people any information about national defense that the Pentagon chooses to conceal.

The question of whether such a disclosure actually damages the national security is no longer relevant, it seems. A retired Central Intelligence Agency official, Roland S. Inlow, testified at Mr. Morison's trial that the Soviet Union had previously obtained a copy of a technical manual describing the satellite that took the photographs. He said he could see nothing of value to the Soviet Union in the photographs. If a document or photograph is classified — rightly or wrongly — judges and juries are apparently to presume that its disclosure will harm the national security.

Mr. Morison's conviction threatens our system of open government and endangers an important check on the unfettered classification of routine documents as secret. The Reagan Administration is at pains to broaden the realm of documents that it can conceal. In April 1982, the President signed an executive order commanding Federal agencies to withhold from the public any information regarding "vulnerabilities or capabilities of systems, installations, projects or plans relating to the national security."

This new category of "vulnerabilities" allows the Reagan Administration to hide most of the evidence of waste, fraud and failure that riddles the President's military buildup. It was intended to hide the clear evidence that, as Charles E. Grassley, Republican Senator from Iowa, said, "the vast majority of money we put into major weapons systems is pure waste and inefficiency."

Stamping such evidence secret is one thing. Keeping it secret is another. The established rules of official concealment are strong enough to silence some employees at the Pentagon, but they have not prevented officials devoted to the welfare of their country from supplying Congress and the media with evidence of waste. That, we must assume, is the chief reason the Reagan Administration has been so determined to expand and distort the Espionage Act of 1917. It needs the threat of 10 years in prison to terrify those who can be silenced in no other way.

Under the new code of secrecy, the Administration has made it clear that those who try to keep the Government accountable will henceforth be treated as spies. □

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